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The Court of Appeals here affirms the decision of the Appellate Division (1918) 168 N. Y. Supp. 454, as to which see note in 27 YALE LAW JOURNAL, 563. See also Corbin, *Contracts for the Benefit of Third Persons* (1918) 27 YALE LAW JOURNAL, 1008, which is cited in the opinion. The development of the New York law on this subject is set forth in an excellent opinion of Mr. Justice Pound, and the statement of the lower court that "The doctrine of *Lawrence v. Fox* is progressive, not retrograde" is approved.

DOWER—PERSONS ENTITLED—DESERTING AND ADULTEROUS WIFE.—A married woman deserted her husband in 1871 and never returned to him. For many years she lived in adultery with other men. In 1914 the husband died testate. The wife claimed dower in his estate. The claim was resisted on the ground that under the Statute of Westminster II, 13 Edw. I, ch. 34 (1285), which came to be recognized as part of the common law of England, the desertion and subsequent adultery of the wife operated to bar her claim for dower. *Held*, that the wife was entitled to dower. Eschweiler, J., *dissenting*. *Davis v. Davis* (1918, Wis.) 167 N. W. 879.

The majority of the court took the view that the statutory system of divorce in Wisconsin, which makes adultery a ground for divorce, had provided a broader remedy than the English law and had therefore superseded it. The dissenting judge took the view that the Wisconsin statutes merely gave an additional remedy without conflicting with the English law in any way. The cases in other jurisdictions are in conflict. Citations are given in the prevailing and in the dissenting opinion. From the point of view of policy there seems no answer to the dissenting judge's view that "the faithless ought not now to be rewarded as though faithful."

INJUNCTION—RESTRAINING ENFORCEMENT OF ALLEGED INVALID ORDINANCE.—The Shredded Wheat Company, a New York corporation, asked in Illinois for an injunction to restrain the City of Elgin from enforcing an ordinance which required the payment of a license fee by any person distributing hand bills, samples, and other advertising matter. The complainant claimed that in distributing its advertising matter it was engaged in interstate commerce and that therefore the ordinance was unconstitutional. It alleged that "irreparable injury" would result from enforcement of the ordinance, but to substantiate this allegation stated no other facts than those given above. *Held*, that the complainant was not entitled to equitable relief. *Shredded Wheat Co. v. City of Elgin* (1918, Ill.) 120 N. E. 248.

The decision in the case is an excellent example of the lack of provision in our system of law for the rendering of declaratory judgments. See Borchard, *The Declaratory Judgment*, *supra*, p. 1. Relief in equity is here denied on the ground that "there is no reason why the validity of the ordinance may not be determined by a court of law in . . . a [criminal] prosecution. If it is invalid, the prosecution will fail and the complainant will not be injured, and if it is valid, there is no ground upon which its enforcement should be enjoined." Thus the plaintiff is compelled, in order to ascertain whether he is legally privileged to distribute the advertising matter without a license, to run the risk of subjecting himself to a successful criminal prosecution if his attorney's view of a doubtful question of constitutional law turns out to be incorrect.

JOINT TENANCY—PERSONAL PROPERTY—JOINT BANK DEPOSIT PAYABLE TO SURVIVOR.—Mrs. Rusk deposited money in a bank and received a certificate of deposit payable to herself or her daughter, "or the survivor." The bank

thereafter paid interest on the deposit to the daughter. When Mrs. Rusk died the daughter claimed the deposit for her own and a granddaughter claimed it for Mrs. Rusk's estate. *Held*, that the daughter was entitled to the deposit. *Erwin v. Felter* (1918, Ill.) 119 N. E. 926.

The Appellate Court had held that no valid gift of the money had been effected by the deposit. *Felter v. Erwin* (1917) 206 Ill. App. 521. The Supreme Court gives no consideration to the principles relating to gifts but treats the transaction as creating a joint-tenancy. In cases involving joint bank deposits the right of the survivor is usually sustained, but the courts are by no means agreed as to the true grounds for reaching this result. See *Wisner v. Wisner* (1918, W. Va.) 95 S. E. 802; and cases collected in L. R. A. 1917 C, 550.

MINES AND MINERALS—EXTRALATERAL RIGHTS—TWO FISSURES WITH ONE APEX.—Some distance below the apex a true fissure vein separated into two fissures or descending limbs, one of which dipped northerly through one side line and the other of which dipped southerly through the opposite side line. *Held*, that the one apex controlled both descending limbs and that the location of the apex had extralateral rights on both limbs and through both side lines. *Jim Butler Tonopah Mining Co. v. West End Consolidated Mining Co.* (1918) 38 Sup. Ct. 574.

This is quite consistent with previous decisions dealing with veins forming a junction on the dip. Where there are two apices they may be located separately and the elder location gets the entire vein at the line of junction and below. U. S. Rev. St. sec. 2336. In the lower court the vein in this case had been described as an anticlinal fold, the crest of which was held to be an apex. *Jim Butler, etc. Co. v. West End, etc. Co.* (1916) 39 Nev. 375, 158 Pac. 876. That supposed "crest" now appears to be the top edge of a single fissure, splitting below into two descending limbs.

STATUTORY CONSTRUCTION—PRACTICE OF MEDICINE—DIAGNOSING DISEASE.—The defendant, a "chiropractor" who held no license to practice medicine, examined a patient, made a diagnosis of abdominal tumor, and recommended an operation by a competent surgeon. The defendant was convicted of "practicing medicine" without a license. *Held*, that the diagnosis of disease constituted the "practice of medicine" within the meaning of the Minnesota statute. *State v. Rolph* (1918, Minn.) 167 N. W. 553.

The decision follows previous adjudications in Minnesota. Statutes regulating the practice of medicine fall into two classes: (1) those which seek to prevent the use of drugs, surgical instruments, etc., by unlicensed persons; (2) those which seek to prevent the practice of the healing art in any manner by unlicensed persons. Under the first class, the "chiropractor" is not practicing medicine. *State v. Fite* (1916) 29 Idaho, 463, 159 Pac. 1183. Under the second class, he is. *People v. Oakley* (1916) 30 Cal. App. 419, 158 Pac. 505.

WILLS—LEGACIES ON CONDITION—CONDITION DEPENDENT UPON CONDUCT OF LEGATEE'S HUSBAND VOID.—A testator bequeathed property in trust, directing the trustee to pay the income thereof to the testator's two granddaughters upon the condition that they and their husbands, if they should marry, entirely abstain from the use of tobacco and of all kinds of intoxicating liquors as a beverage, and adopt a particular spelling of the testator's surname "Tyrrel"